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Filing date: **02/06/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202957
Party	Plaintiff Manpower Inc. (d/b/a ManpowerGroup) and Right Management Inc.
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Submission	Motion to Suspend for Civil Action
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Date	02/06/2012
Attachments	Motion to Suspend.pdf ( 4 pages )(112801 bytes ) Exhibit A.pdf ( 28 pages )(116370 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**APPLICANT:** Humanly Possible, Inc.  
**APPLICATION NO.:** 85/339,610  
**FILING DATE:** June 7, 2011  
**MARK:** THE EXTRAORDINARY IS HUMANLY POSSIBLE

**Published in Official Gazette: November 15, 2011**

MANPOWER INC. (d/b/a MANPOWERGROUP) and RIGHT MANAGEMENT INC.	)	
	)	
	)	
	)	
<i>Opposers,</i>	)	
	)	
v.	)	Opposition No. 91202957
	)	
HUMANLY POSSIBLE, INC.	)	
	)	
	)	
<i>Applicant.</i>	)	
	)	

**MOTION TO SUSPEND PROCEEDING IN VIEW OF PENDING CIVIL ACTION  
PURSUANT TO TRADEMARK RULE 2.117(a)**

Opposers Manpower Inc. (d/b/a ManpowerGroup) and Right Management Inc. (collectively, “Manpower”) hereby move for suspension of these proceedings pursuant to Trademark Rule 2.117(a), 37 C.F.R. §2.117(a).

On July 22, 2011 Applicant filed a complaint in the United States District Court for the Northern District of Illinois against Manpower for trademark infringement, unfair competition and deceptive trade practices. In support of this motion, Opposers submit herewith a copy of Manpower’s Answer to Humanly Possible’s Complaint for Injunctive Relief and Damages (Ex. A) and further state as follows:

In its Complaint, Applicant asks the district court to declare that Opposers' use of the phrase "humanly possible" in its marketing materials, *e.g.*, in the form "Powering the world of work is humanly possible," constitutes infringement of Applicant's federal trademark Registration No. 2,477,681 for HUMANLY POSSIBLE for "business management consultation." (Ex. A, ¶¶14, 34–36.)

In their Answer, Opposers contend that they use "humanly possible" only in a descriptive sense and cannot be held liable for infringement. (*See, e.g., id.* ¶34.) Further, Opposers contend that they are not aware of any evidence supporting Applicant's claim that "humanly possible" is distinctive of Applicant's services; thus, discovery is likely to occur regarding the question of Applicant's claim of distinctiveness for the phrase "humanly possible." (*See id.* ¶¶10–14.)

In addition, Applicant contends that its first use of the sentence "The Extraordinary is Humanly Possible" as a purported trademark occurred in June 2011. However, Opposers began using the phrase "humanly possible" before that. (*See id.* ¶28.) Thus, to the extent that either party has the right to exclusive use of the phrase "humanly possible" in descriptive sentences—and Opposers contend that neither party does—Opposers' use of "humanly possible" in that manner pre-dated Applicant's use of "The Extraordinary is Humanly Possible."

The pending civil action accordingly encompasses issues that are involved in this proceeding, namely whether Applicant is entitled to exclusive use of "humanly possible" in descriptive sentences. Therefore, the determination of the issues in the litigation will likely have bearing on, and could potentially be dispositive of, the issues involved in this proceeding.

Opposers therefore respectfully request suspension of these proceedings pending resolution of the civil action pursuant to Trademark Rule 2.117(a), 37 C.F.R. §2.117(a). *See Whopper-Burger, Inc. v. Burger King Corp.*, 171 U.S.P.Q. 805, 807 (T.T.A.B. 1971)

(suspending TTAB proceeding in light of pending federal litigation because “the outcome of the civil action will have a direct bearing on the question of the rights of the parties herein and may in fact completely resolve all the issues.”).

Dated: February 6, 2012

Respectfully submitted,

/s/ Claudia Ray

Claudia Ray

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MANPOWER INC. d/b/a

MANPOWERGROUP AND RIGHT

MANAGEMENT INC.

**CERTIFICATE OF SERVICE**

I, Claudia Ray, hereby certify that a true and complete copy of the foregoing MOTION TO SUSPEND PROCEEDING IN VIEW OF PENDING CIVIL ACTION PURSUANT TO TRADEMARK RULE 2.117(a) has been served on Mary E. Innis by mailing said copy on February 6, 2012 via Federal Express to:

Mary E. Innis  
Innis Law Group LLC  
321 N. Clark Street, Suite 500  
Chicago, IL 60654

Dated: February 6, 2012

/s/ Claudia Ray

# **Exhibit A**

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS**  
**MANPOWER INC. (D/B/A MANPOWERGROUP) AND RIGHT MANAGEMENT, INC.**

Defendants Manpower Inc. (d/b/a ManpowerGroup) and Right Management, Inc. (individually “Manpower” and “Right Management”; collectively “Defendants”), by and through their attorneys, Kirkland & Ellis LLP, answer the Complaint and Jury Demand (the “Complaint”) of plaintiff Humanly Possible, Inc. (“Plaintiff”) in this action as follows:

### **PARTIES**

1. Plaintiff, Humanly Possible, Inc. (“Humanly Possible”) is an Illinois Corporation with its principal place of business at 324 N. Marion St., Oak Park, Illinois 60302.

**ANSWER TO PARAGRAPH 1:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 1 of the Complaint and therefore deny the same.

2. Upon information and belief, Defendant, Manpower Inc. (“Manpower”) is a Wisconsin Corporation with its principal place of business at 100 Manpower Place, Milwaukee, Wisconsin 53212. Upon information and belief, Manpower is doing business as ManpowerGroup and under or in connection with the names and brands ManpowerGroup Solutions, Manpower, Experis and Defendant, Right Management Inc., which are operating as part of ManpowerGroup, throughout the United States, in the State of Illinois, and in this judicial district. Manpower is also the owner and operator of the domain name and website available at <[www.manpowergroup.com](http://www.manpowergroup.com)> and numerous other websites that can be accessed through <[www.manpowergroup.com](http://www.manpowergroup.com)>, including <[www.manpowerbusinesssolutions.com](http://www.manpowerbusinesssolutions.com)>, <[www.manpower.com](http://www.manpower.com)>, and <[www.experis.com](http://www.experis.com)>.

**ANSWER TO PARAGRAPH 2:** Admitted.

3. Upon information and belief, Defendant, Right Management Inc. (“Right Management”, together with Manpower, “Defendants”) is a Pennsylvania Corporation with its headquarters at 1818 Market Street, 33rd Floor, Philadelphia, Pennsylvania 19103. Right Management is doing business throughout the United States, in the State of Illinois, and in this judicial district. Right Management is also the owner and operator of the domain name and website available at <<http://www.right.com>>, which is accessible through <[www.manpowergroup.com](http://www.manpowergroup.com)>.



**ANSWER TO PARAGRAPH 3:** Admitted.

4. Upon information and belief, Manpower acquired Right Management in 2004 and is currently Right Management's parent company.

**ANSWER TO PARAGRAPH 4:** Admitted.

5. This action is brought pursuant to 15 U.S.C. §§ 1114 and 1125(a) as well as 815 ILCS 510/2 and Illinois common law.

**ANSWER TO PARAGRAPH 5:** Defendants state that the allegations contained in ¶ 5 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, admit that Plaintiff has purported to assert claims based on 15 U.S.C. §§ 1114 and 1125(a), as well as 815 ILCS 510/2 and Illinois common law, but deny the merits and sufficiency of the claims asserted in the Complaint.

6. This Court has subject matter jurisdiction over this case pursuant to 15 U.S.C. §§ 1121, 1125, 1114 and 28 U.S.C. §§ 1331, 1338 (a) and (b). This Court also has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the action is between citizens of different states and the matter in controversy exceeds the sum of \$75,000.

**ANSWER TO PARAGRAPH 6:** Defendants state that the allegations contained in ¶ 6 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, admit that this Court has subject matter jurisdiction as to Plaintiff's federal-law claims.

7. This Court has jurisdiction over the related state and common law claims under 28 U.S.C. §§ 1367 and 1338(b).

**ANSWER TO PARAGRAPH 7:** Defendants state that the allegations contained in ¶ 7 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, admit that this Court has subject matter jurisdiction over Plaintiff's state-law claims.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

**ANSWER TO PARAGRAPH 8:** Defendants state that the allegations contained in ¶ 8 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, admit that venue is proper in this judicial district.

### **FACTS**

9. Humanly Possible is a corporation based in Oak Park, Illinois that provides its clients with business management consulting services including executive coaching, human resources consulting, organizational consulting, and management education. Humanly Possible's services address various issues in the workplace including change and innovation, executive education and coaching, team building, relationship facilitation, talent management, training and development services and courses, and leadership and related human resource and management issues. Humanly Possible serves a wide variety of clients including organizations, executives, human resource departments, and entrepreneurs and markets their services to human resource departments and executives from large international companies as well as to small business owners in a variety of fields.

**ANSWER TO PARAGRAPH 9:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 9 of the Complaint and therefore deny the same.

10. Since at least as early as January 2000, Humanly Possible adopted and began to use its distinctive name and trademark HUMANLY POSSIBLE in interstate commerce to identify the source of its services. Humanly Possible has continuously used its HUMANLY POSSIBLE name and mark (hereinafter "HUMANLY POSSIBLE Mark") in interstate commerce in connection with its services since its inception and aforesaid adoption and first use.

**ANSWER TO PARAGRAPH 10:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 10 of the Complaint and therefore deny the same.

11. For over a decade, Humanly Possible has been carefully building a stellar reputation for its personalized HUMANLY POSSIBLE business management services as symbolized by its inherently distinctive HUMANLY POSSIBLE Mark. Humanly Possible has taken great care to ensure the highest quality of its personalized and customized services offered in connection with its HUMANLY POSSIBLE Mark and to build and preserve the goodwill associated with its customized services and distinctive HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 11:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 11 of the Complaint and therefore deny the same.

12. Humanly Possible has promoted its customized HUMANLY POSSIBLE consulting services online, in print, on the radio, through word of mouth, and through research in the field of management services as well as personal appearances and presentations.

**ANSWER TO PARAGRAPH 12:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 12 of the Complaint and therefore deny the same.

13. Humanly Possible owns and operates the domain name and website at <www.humanlypossible.com>, which prominently features its distinctive HUMANLY POSSIBLE Mark. Copies of excerpts from Humanly Possible's website are attached as Exhibits 1-7.

**ANSWER TO PARAGRAPH 13:** Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in the first sentence of ¶ 13 of the Complaint and therefore deny the same, and further state that Defendants are unable to either admit or deny the allegations regarding Exhibits 1-7.

14. Humanly Possible owns U.S. Registration No. 2,477,681 for its HUMANLY POSSIBLE Mark, which covers “business management consultation.” Reg No. 2,477,681 is now incontestable pursuant to 15 U.S.C. § 1065 and constitutes conclusive evidence of the validity of the HUMANLY POSSIBLE Mark and Humanly Possible’s exclusive right to use the HUMANLY POSSIBLE Mark pursuant to 15 U.S.C. §§ 1065 and 1115(b). This registration is valid and subsisting, and Humanly Possible owns all rights, title and interest to its HUMANLY POSSIBLE Mark, together with the goodwill symbolized by its distinctive HUMANLY POSSIBLE Mark and the exclusive right to exploit the goodwill associated with its HUMANLY POSSIBLE Mark. A copy of the registration record is attached hereto as Exhibit 8.

**ANSWER TO PARAGRAPH 14:** Defendants state that the allegations contained in ¶ 14 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, Defendants lack knowledge or information sufficient to form a belief as to as to the truth or falsity of the allegations contained in ¶ 14 of the Complaint and therefore deny the same, except admit that the United States Patent & Trademark Office (“PTO”) online records indicate that the PTO (i) issued Registration No. 2,477,681 to Plaintiff on August 14, 2001 for HUMANLY POSSIBLE in International Class 35 for “business management consultation,” (ii) accepted and acknowledged Plaintiff’s combined declaration of use and incontestability for HUMANLY POSSIBLE on November 14, 2006, and (iii) renewed the registration for HUMANLY POSSIBLE on August 30, 2010.

15. Upon information and belief, Manpower is a nineteen billion dollar Fortune 500 global company that provides various services related to the workplace including business management consulting services. On its website, Manpower claims to maintain 4,000 offices worldwide, service 400,000 clients per year, and be the world leader in innovative workforce solutions.

**ANSWER TO PARAGRAPH 15:** Defendants deny the allegations contained in ¶ 15 of the Complaint, except admit that Manpower is a \$19 billion company that is currently ranked 138 on the Fortune 500 list of the largest American companies, was named to the Ethisphere Institute's list of the World's Most Ethical Companies in 2011, was named the No. 1 Most Admired Company in its industry by Fortune magazine in 2011 (its ninth successive year on that list), and further admit that Manpower provides innovative workforce solutions including, *inter alia*, business management consulting solutions through its subsidiary Right Management, and further admit that Manpower's website states that it has 4,000 offices worldwide, serving approximately 400,000 clients per year.

16. Upon information and belief, through its four brands, Experis, Manpower, ManpowerGroup Solutions, and Defendant, Right Management, Manpower offers consumers executive and organizational consulting services, talent and career management workforce solutions, recruitment and staffing solutions, professional resourcing and project based solutions, human resources outsourcing services, and training and development services and courses.

**ANSWER TO PARAGRAPH 16:** Defendants deny the allegations contained in ¶ 16 of the Complaint, except admit that Manpower offers a range of services, including recruitment and assessment, training and development, and career management, outsourcing and workforce consulting, and further admit that Manpower offers these services through its ManpowerGroup Solutions, Experis, Manpower, and Right Management brands.

17. Upon information and belief, Manpower's Right Management brand specifically operates as the talent and career management consulting firm within the ManpowerGroup.

**ANSWER TO PARAGRAPH 17:** Defendants deny the allegations contained in ¶ 17 of the Complaint, except admit that Right Management is the global leader in talent and career management workforce solutions.

18. According to Right Management's website, Right Management employs over 3,500 employees in more than 300 service locations around the world and is the world's largest talent and career management consulting firm.

**ANSWER TO PARAGRAPH 18:** Admitted.

19. Upon information and belief, Right Management's services include but are not limited to providing its customers with talent assessment solutions, leader development solutions, organizational effectiveness solutions, employee engagement solutions, and workforce transition and outplacement.

**ANSWER TO PARAGRAPH 19:** Admitted.

20. With actual knowledge of Humanly Possible's prior and federally-registered trademark rights in its HUMANLY POSSIBLE Mark, on or about October 29, 2010, Tony Santora, Executive Vice President of Right Management ("Santora"), contacted Humanly Possible on behalf of Manpower and inquired about a possible acquisition of Humanly Possible's prior rights in the HUMANLY POSSIBLE Mark for broad scale use by Defendants across Manpower's group of brands.

**ANSWER TO PARAGRAPH 20:** Defendants deny the allegations contained in ¶ 20 of the Complaint, except admit that Tony Santora ("Santora"), who at the time was with Right Management, contacted Plaintiff on or around October 2010 to discuss the possibility of Manpower acquiring from Plaintiff the right to use "humanly possible" as a trademark.

21. Following Humanly Possible's unsolicited initial contact with Santora, on or about December 2, 2010, Manpower conveyed a written letter of intent to Humanly Possible in an attempt to purchase Humanly Possible's prior rights in its distinctive HUMANLY POSSIBLE Mark and name as well as its rights in the domain name [HUMANLYPOSSIBLE.COM](http://HUMANLYPOSSIBLE.COM). Humanly Possible refused to accept Manpower's initial offer to acquire its prior rights in its HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 21:** Defendants deny the allegations contained in the first sentence of ¶ 21 of the Complaint, except admit Manpower sent Plaintiff a letter discussing

the possibility of Manpower acquiring the right to use “humanly possible” as a trademark, as well as rights in the domain name <humanlypossible.com>, and deny the allegations contained in the second sentence of ¶ 21 of the Complaint, except admit that Plaintiff did not grant Manpower the rights in and to either the HUMANLY POSSIBLE mark or the domain name <humanlypossible.com>.

22. Having initially failed to purchase Humanly Possible’s rights in the HUMANLY POSSIBLE Mark and in light of Defendants’ actual knowledge of Humanly Possible’s prior rights in its HUMANLY POSSIBLE Mark, on or about January 18, 2011, Ken. C. Hunt, Senior Vice President, Chief Legal Officer of ManpowerGroup (“Hunt”), contacted Humanly Possible on behalf of Manpower to seek Humanly Possible’s permission to lawfully use HUMANLY POSSIBLE in connection with Defendants’ services.

**ANSWER TO PARAGRAPH 22:** Defendants deny the allegations contained in ¶ 22 of the Complaint, except admit that on or around January 2011, Ken Hunt (“Hunt”) of Manpower spoke with Jackie Gnepp (“Gnepp”) of Plaintiff regarding the possibility of Manpower buying from Plaintiff the right to use “humanly possible” as a trademark.

23. On or about January 19, 2010, as an alternative to Manpower’s previous offer proposing an outright sale of the HUMANLY POSSIBLE Mark, Manpower conveyed a written offer proposing that Humanly Possible license or otherwise lawfully permit Defendants to use HUMANLY POSSIBLE in some “limited circumstances” for a specified one-time fee.

**ANSWER TO PARAGRAPH 23:** Defendants deny the allegations contained in ¶ 23 of the Complaint, except admit that in or around January 2011, Hunt sent Gnepp an e-mail about the possibility of Manpower acquiring the right to use “humanly possible” as a trademark.

24. Although the parties engaged in some discussions regarding Defendants’ potential limited use of the HUMANLY POSSIBLE Mark, Humanly Possible rejected Manpower’s offer to license or otherwise use Humanly Possible’s valuable HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 24:** Defendants deny the allegations contained in ¶ 24 of the Complaint, except admit that Plaintiff did not grant Manpower the right to use “humanly

possible” as a trademark and that Manpower told Plaintiff that, in light of Plaintiff’s rejection of Manpower’s proposal, Manpower had modified its marketing program so as to avoid any conflict with rights in the words “humanly possible” claimed by Plaintiff.

25. Throughout all discussions with Defendants, Humanly Possible expressed to Defendants the great value of the goodwill to Humanly Possible of its distinctive HUMANLY POSSIBLE Mark and of its ability to control the goodwill associated with services offered in connection with its distinctive HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 25:** Defendants deny the allegations contained in ¶ 25 of the Complaint, except admit that Gnepp, on behalf of Plaintiff, asserted that Plaintiff had strong rights in “humanly possible” as a trademark.

26. On or about February 17, 2011, Manpower ended negotiations with Humanly Possible without reaching any agreement with Humanly Possible authorizing any use by Defendants of Humanly Possible’s distinctive HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 26:** Defendants deny the allegations contained in ¶ 26 of the Complaint, except admit that Plaintiff and Manpower did not reach an agreement regarding the right to use “humanly possible” as a trademark.

27. Humanly Possible at no time granted Defendants any permission, license, or authorization to use its valuable HUMANLY POSSIBLE Mark in any manner.

**ANSWER TO PARAGRAPH 27:** Defendants deny the allegations contained in ¶ 27 of the Complaint, except admit that Plaintiff and Manpower did not reach an agreement regarding the right to use “humanly possible” as a trademark and further admit that Manpower never sought any “permission, license or authorization” for descriptive use of the phrase “humanly possible.”

28. On May 31, 2011, Humanly Possible first became aware that Defendants were consistently and frequently using its HUMANLY POSSIBLE Mark as the cornerstone of a new global branding campaign without Humanly Possible’s consent and despite Manpower’s failed



attempt to purchase HUMANLY POSSIBLE or otherwise lawfully obtain authorization to use the HUMANLY POSSIBLE Mark from Humanly Possible, the rightful owner of all rights, title and interest in its HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 28:** Defendants lack knowledge or information sufficient to form a belief as to the allegations contained in ¶ 28 of the Complaint and therefore deny the same, and further deny that Manpower needs Plaintiff's permission, authorization, or a license to use the words "humanly possible" in a descriptive manner.

29. On the website available at <www.manpowergroup.com> and on links that are accessible through the website, Defendants are repeatedly and prominently using HUMANLY POSSIBLE on or in connection with the promotion of Defendants' services in a manner to intentionally create an association with Defendants, Defendants' brands, and Defendants' services.

**ANSWER TO PARAGRAPH 29:** Defendants state that the allegations contained in ¶ 14 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

30. Defendants are using the HUMANLY POSSIBLE Mark as the thematic element of their new global branding campaign that features all of the ManpowerGroup brands in connection with the HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 30:** Defendants deny the allegations contained in ¶ 30 of the Complaint, except admit that Manpower has used advertising materials that reference the words "humanly possible" in their descriptive sense, and further admit that all such materials prominently display either the ManpowerGroup logo or the Experis logo.

31. For example, attached as Exhibit 9 is a screenshot of a promotional banner appearing on Manpower's website where the HUMANLY POSSIBLE Mark is the most prominent feature of the banner. The HUMANLY POSSIBLE Mark appears in significantly larger type than any other text on the webpage, and it is the dominant element of the entire visual page. Ex. 9.

**ANSWER TO PARAGRAPH 31:** Defendants deny the allegations contained in ¶ 31 of the Complaint, except admit that Exhibit 9 to the Complaint appears to be a copy of a Manpower advertisement, which document speaks for itself.

32. Defendants are also using the HUMANLY POSSIBLE Mark (1) on the cover of a print brochure that features the four brands of ManpowerGroup, (2) on the cover of a print brochure that features the Experis brand, and (3) on the cover of a print brochure that features the Manpower brand. Copies of the brochures are attached as Exhibits 10-12.

**ANSWER TO PARAGRAPH 32:** Defendants deny the allegations contained in ¶ 32 of the Complaint, except admit that Manpower has used advertising materials that reference the words “humanly possible” in their descriptive sense and further admit that Exhibits 10-12 of the Complaint appear to be copies of portions of Manpower advertisements, which documents speak for themselves.

33. Defendants are also prominently using the HUMANLY POSSIBLE Mark on the introductory screen of a video presentation available on <[www.manpowergroup.com](http://www.manpowergroup.com)> that showcases the ManpowerGroup and promotes all of the ManpowerGroup brands. A screenshot capturing this introductory screen is attached as Ex. 13.

**ANSWER TO PARAGRAPH 33:** Defendants deny the allegations contained in ¶ 33 of the Complaint, except admit that Exhibit 13 of the Complaint appears to be a copy of a portion of a Manpower advertisement, which document speaks for itself.

34. Furthermore, Defendants are extensively using the HUMANLY POSSIBLE Mark on-line, at the website <[www.manpowergroup.com](http://www.manpowergroup.com)>, and on links that are accessible through <[www.manpowergroup.com](http://www.manpowergroup.com)>, as the most prominent, consistent, and repetitive element in various promotional headlines, titles and slogans including but not limited to “Business Growth is Humanly Possible”, “Every Breakthrough Is Only Possible Because its Humanly Possible”, “Powering the World of Work is Humanly Possible”, “Business Agility is Humanly Possible”, “Getting to Your Goals Faster is Humanly Possible”, “Peak Performance is Humanly Possible”, “Crushing Cubes is Humanly Possible”, “Relentless Growth is Humanly Possible”, “Rising Above is Humanly Possible”, “Hardwiring the future is humanly possible”, “Absolute Clarity is Humanly Possible”, “Getting There Faster is Humanly Possible”, “Elevating potential is humanly possible”, “Finding the Next Rock Star is Humanly Possible”, “A Deeper Talent Pool Is Humanly Possible”, “Accelerating business growth is humanly possible”, “Accuracy and

assurance are humanly possible.”, “Building a better way is humanly possible.”, and “Driving innovation is humanly possible.” Screenshots of examples of Defendants’ uses of the HUMANLY POSSIBLE Mark are attached as Group Exhibit 14A-14N.

**ANSWER TO PARAGRAPH 34:** Defendants deny the allegations contained in ¶ 34 of the Complaint, except admit that Manpower has used advertising materials referencing the words “humanly possible” in their descriptive sense, including in combination with other descriptive words, and further admit that Exhibits 14A-14N of the Complaint appear to be copies of portions of Manpower advertisements, which documents speak for themselves.

35. Prior to this use, and as evidenced by Manpower’s failed attempt to purchase the HUMANLY POSSIBLE Mark, Defendants had actual knowledge of Humanly Possible’s federally-registered mark and its prior and exclusive rights in the HUMANLY POSSIBLE Mark, including the right to control the goodwill associated with the HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 35:** Defendants deny the allegations contained in the first sentence of ¶ 35 of the Complaint, except admit that as of October 2010, Manpower was aware that the PTO had issued Registration No. 2,477,681 to Plaintiff on August 14, 2001 for HUMANLY POSSIBLE in International Class 35 for “business management consultation.”

36. Nonetheless, Defendants knowingly and willfully adopted and are using HUMANLY POSSIBLE in commerce as the cornerstone of their branding in numerous contexts including print materials, video presentations, and throughout the website available at <www.manpowergroup.com> and on additional links that can be accessed through the website.

**ANSWER TO PARAGRAPH 36:** Defendants deny the allegations contained in ¶ 36 of the Complaint, except admit that Manpower has used various advertising materials referencing the words “humanly possible” in their descriptive sense, and further admit that all such materials prominently display either the ManpowerGroup logo or the Experis logo.

37. Upon information and belief, Manpower has also applied to register for trademark rights in HUMANLY POSSIBLE in various locations outside of the United States, including but not limited to the European Union, Australia, Canada, and Mexico.

**ANSWER TO PARAGRAPH 37:** Defendants deny the allegations contained in ¶ 37 of the Complaint, except admit that Manpower has filed applications for registration of the words “humanly possible” as a trademark in jurisdictions outside the United States and further state, upon information and belief, that Plaintiff has never used HUMANLY POSSIBLE outside the United States.

38. Upon information and belief, based on the vast resources at their disposal as evidenced by the claims on their websites, Defendants have the resources and capability to quickly saturate the market with their unauthorized use of HUMANLY POSSIBLE. As evidenced by their extensive marketing campaign based on HUMANLY POSSIBLE, Defendants have commenced with this market saturation.

**ANSWER TO PARAGRAPH 38:** Denied.

39. Defendants’ unauthorized use of HUMANLY POSSIBLE effectively destroys Humanly Possible’s right to control the quality of services and goodwill associated with its HUMANLY POSSIBLE Mark. Defendants’ unauthorized use of HUMANLY POSSIBLE also diminishes, if not destroys, Humanly Possible’s eleven year investment in its core brand identity, its ability to continue to develop its customized consulting services business, which it has built around its HUMANLY POSSIBLE Mark, and its ability to move into new markets for its services.

**ANSWER TO PARAGRAPH 39:** Defendants state that the allegations contained in ¶ 39 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same, except that defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the second sentence of ¶ 39 of the Complaint that Plaintiff has an “eleven year investment in its core brand identity” and that Plaintiff has built its customized consulting business around its alleged HUMANLY POSSIBLE mark, and therefore deny the same.

40. Defendants’ use of the HUMANLY POSSIBLE Mark after Humanly Possible refused to sell the HUMANLY POSSIBLE Mark to Manpower and refused to grant Defendants the right to use the HUMANLY POSSIBLE Mark constitutes bad faith infringement of Humanly Possible’s trademark rights.

**ANSWER TO PARAGRAPH 40:** Defendants state that the allegations contained in ¶ 40 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

41. On or about June 3, 2011, Humanly Possible notified Hunt that Defendants' unauthorized use of the HUMANLY POSSIBLE Mark constituted trademark infringement of Humanly Possible's rights in the HUMANLY POSSIBLE Mark. Humanly Possible requested that Defendants cease their unauthorized use of the HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 41:** Defendants deny the allegations contained in ¶ 41 of the Complaint, except admit that on or around June 2011, Gnepp called Hunt regarding Manpower's alleged use of the words "humanly possible" in certain of Manpower's advertisements, and further admit that Hunt followed up in a June 7, 2011 e-mail to Gnepp, explaining that Manpower did not believe it had violated any rights of Plaintiff in the words "humanly possible."

42. Despite Humanly Possible's notification to Defendants that their acts constituted a violation of Humanly Possible's rights, Defendants continue to use the HUMANLY POSSIBLE Mark without Humanly Possible's consent or authorization.

**ANSWER TO PARAGRAPH 42:** Defendants state that the allegations contained in ¶ 42 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

43. Defendants' continued use of the HUMANLY POSSIBLE Mark is likely to cause confusion, mistake or deception. In particular, consumers are likely to mistakenly believe both that Defendants and/or their services are associated or connected with Humanly Possible and/or that Humanly Possible and/or its services are associated or connected with Defendants.

**ANSWER TO PARAGRAPH 43:** Defendants state that the allegations contained in ¶ 43 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

44. Defendants' unauthorized use and conduct has deprived and will continue to deprive Humanly Possible of the ability to control consumer perception of its consulting services provided in connection with its HUMANLY POSSIBLE Mark placing the valuable reputation and goodwill associated with its core identity in the hands of Defendants, over whom Humanly Possible has no control.

**ANSWER TO PARAGRAPH 44:** Defendants state that the allegations contained in ¶ 44 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

45. Defendants' unauthorized use of HUMANLY POSSIBLE as the cornerstone of their new global branding campaign has impaired and continues to impair the value of Humanly Possible's distinctive HUMANLY POSSIBLE Mark, including Humanly Possible's corporate identity built upon its distinctive HUMANLY POSSIBLE Mark and Humanly Possible's ability to move into new markets, by creating reverse confusion among consumers.

**ANSWER TO PARAGRAPH 45:** Defendants state that the allegations contained in ¶ 45 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

46. Defendants have traded on and profited from Humanly Possible's efforts, resources, and investments without obtaining Humanly Possible's permission or compensating Humanly Possible for their use of the HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 46:** Defendants state that the allegations contained in ¶ 46 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

47. Defendants have intentionally misappropriated Humanly Possible's Mark rather than using their own resources or creative efforts to create their own distinctive branding campaign.

**ANSWER TO PARAGRAPH 47:** Defendants state that the allegations contained in ¶ 47 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

48. Defendants have already benefited by making commercial use of the HUMANLY POSSIBLE Mark without Humanly Possible's consent or authorization and without compensating Humanly Possible for the use of its HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 48:** Defendants state that the allegations contained in ¶ 48 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

49. Without an injunction, Defendants will continue to benefit at Humanly Possible's expense.

**ANSWER TO PARAGRAPH 49:** Defendants state that the allegations contained in ¶ 49 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

50. Humanly Possible has no adequate remedy at law.

**ANSWER TO PARAGRAPH 50:** Defendants state that the allegations contained in ¶ 50 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

### **FIRST CLAIM FOR RELIEF**

51. Humanly Possible repeats and realleges each and every allegation of paragraphs 1 through 50 as though fully set forth herein.

**ANSWER TO PARAGRAPH 51:** Defendants repeat and incorporate herein their responses to paragraphs 1-50 of the Complaint as set forth above as if repeated here in their entireties.

52. Defendants' unauthorized use of HUMANLY POSSIBLE in commerce and in connection with their services is likely to cause confusion, mistake, or deception as to the affiliation, connection or association of Defendants or their services with Humanly Possible, Humanly Possible's federally-registered HUMANLY POSSIBLE Mark and/or Humanly Possible's services, and vice versa, in violation of 15 U.S.C. § 1114(1)(a).

**ANSWER TO PARAGRAPH 52:** Defendants state that the allegations contained in ¶ 52 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

53. Defendants have acted in full knowledge of Humanly Possible's prior use of and statutory and common law rights to its HUMANLY POSSIBLE Mark and in willful violation of 15 U.S.C. 1114(1)(a).

**ANSWER TO PARAGRAPH 53:** Defendants state that the allegations contained in ¶ 53 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

54. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer irreparable harm for which it has no adequate remedy at law, and, thus, Humanly Possible is entitled to injunctive relief.

**ANSWER TO PARAGRAPH 54:** Defendants state that the allegations contained in ¶ 54 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

55. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer damages in an amount to be proved at trial.



**ANSWER TO PARAGRAPH 55:** Defendants state that the allegations contained in ¶ 55 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

**SECOND CLAIM FOR RELIEF**

56. Humanly Possible repeats and realleges each and, every allegation of paragraphs 1 through 55 as though fully set forth herein.

**ANSWER TO PARAGRAPH 56:** Defendants repeat and incorporate herein their responses to paragraphs 1-55 of the Complaint as set forth above as if repeated here in their entireties.

57. Defendants' unauthorized use of the HUMANLY POSSIBLE Mark in commerce and in connection with services that are identical and/or similar to Humanly Possible's services is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Humanly Possible, and vice versa, in violation of 15 U.S.C. § 1125(a).

**ANSWER TO PARAGRAPH 57:** Defendants state that the allegations contained in ¶ 57 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

58. Defendants' unauthorized use of the HUMANLY POSSIBLE Mark in commerce and in connection with services that are identical and/or similar to Humanly Possible's services is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' services and commercial activities by Humanly Possible, and/or as to the origin, sponsorship, or approval of Humanly Possible's services and commercial activities by Defendants in violation of 15 U.S.C. § 1125(a).

**ANSWER TO PARAGRAPH 58:** Defendants state that the allegations contained in ¶ 58 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

59. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer irreparable harm for which it has no adequate remedy at law, and, thus, Humanly Possible is entitled to injunctive relief.

**ANSWER TO PARAGRAPH 59:** Defendants state that the allegations contained in ¶ 59 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

60. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer damages in an amount to be proved at trial.

**ANSWER TO PARAGRAPH 60:** Defendants state that the allegations contained in ¶ 60 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

### **THIRD CLAIM FOR RELIEF**

61. Humanly Possible repeats and realleges each and every allegation of paragraphs 1 through 60 as though fully set forth herein.

**ANSWER TO PARAGRAPH 61:** Defendants repeat and incorporate herein their responses to paragraphs 1-60 of the Complaint as set forth above as if repeated here in their entireties.

62. Humanly Possible is the owner of common law rights in its HUMANLY POSSIBLE Mark.

**ANSWER TO PARAGRAPH 62:** Defendants state that the allegations contained in ¶ 62 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in ¶ 62 of the Complaint and therefore deny the same.

63. Defendants' unauthorized use of the HUMANLY POSSIBLE Mark in connection with their services is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Humanly Possible, and vice versa, in violation of Illinois common law.

**ANSWER TO PARAGRAPH 63:** Defendants state that the allegations contained in ¶ 63 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

64. Defendants' unauthorized use of the HUMANLY POSSIBLE Mark in commerce and in connection with their services is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' services and commercial activities by Humanly Possible, and/or as to the origin, sponsorship, or approval of Humanly Possible's services and commercial activities by Defendants in violation of Illinois common law.

**ANSWER TO PARAGRAPH 64:** Defendants state that the allegations contained in ¶ 64 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

65. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer irreparable harm for which it has no adequate remedy at law, and, thus, Humanly Possible is entitled to injunctive relief.

**ANSWER TO PARAGRAPH 65:** Defendants state that the allegations contained in ¶ 65 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

66. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer damages in an amount to be proved at trial.

**ANSWER TO PARAGRAPH 66:** Defendants state that the allegations contained in ¶ 66 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

#### **FOURTH CLAIM FOR RELIEF**

67. Humanly Possible repeats and realleges each and every allegation of paragraphs 1 through 66 as though fully set forth herein.

**ANSWER TO PARAGRAPH 67:** Defendants repeat and incorporate herein their responses to paragraphs 1-66 of the Complaint as set forth above as if repeated here in their entireties.

68. By their actions described above, Defendants have engaged in unfair competition in violation of Humanly Possible's rights.

**ANSWER TO PARAGRAPH 68:** Defendants state that the allegations contained in ¶ 68 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same

69. Defendants' actions are likely to cause confusion, mistake, and deception among consumers and the public as to the affiliation, connection, or association of Defendants with Humanly Possible, and vice versa, and/or as to the source, origin, sponsorship, or approval of Defendants' services and commercial activities by Humanly Possible, and/or as to the source, origin, sponsorship, or approval of Humanly Possible's services and commercial activities by Defendants.

**ANSWER TO PARAGRAPH 69:** Defendants state that the allegations contained in ¶ 69 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same

70. Defendants' actions and unauthorized use of HUMANLY POSSIBLE constitutes unfair competition in violation of Illinois common law as Defendants' acts constitute an intentional misappropriation of Humanly Possible's HUMANLY POSSIBLE Mark, reputation and commercial advantage.

**ANSWER TO PARAGRAPH 70:** Defendants state that the allegations contained in ¶ 70 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same

71. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer irreparable harm for which it has no adequate remedy at law, and, thus, Humanly Possible is entitled to injunctive relief.

**ANSWER TO PARAGRAPH 71:** Defendants state that the allegations contained in ¶ 71 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same

72. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer damages in an amount to be proved at trial.

**ANSWER TO PARAGRAPH 72:** Defendants state that the allegations contained in ¶ 72 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

#### **FIFTH CLAIM FOR RELIEF**

73. Humanly Possible repeats and realleges each and every allegation of paragraphs 1 through 72 as though fully set forth herein.

**ANSWER TO PARAGRAPH 73:** Defendants repeat and incorporate herein their responses to paragraphs 1-72 of the Complaint as set forth above as if repeated here in their entirety.

74. As a result of their unauthorized use of the HUMANLY POSSIBLE Mark in connection with their services, Defendants are likely to cause confusion, to cause mistake or to deceive the public in violation of 815 ILCS 510/1, *et seq.*

**ANSWER TO PARAGRAPH 74:** Defendants state that the allegations contained in ¶ 74 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

75. Specifically, Defendants' unauthorized use of the HUMANLY POSSIBLE Mark causes a likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of Defendants' services by Humanly Possible, and vice versa.

**ANSWER TO PARAGRAPH 75:** Defendants state that the allegations contained in ¶ 75 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

76. Defendants' unauthorized use of the HUMANLY POSSIBLE Mark also causes a likelihood of confusion or of misunderstanding as to affiliation, connection, or association of Defendants and their services with Humanly Possible, and vice versa.

**ANSWER TO PARAGRAPH 76:** Defendants state that the allegations contained in ¶ 76 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

77. Defendants' unauthorized use of the Humanly Possible Mark is a willful violation of Humanly Possible's intellectual property rights.

**ANSWER TO PARAGRAPH 77:** Defendants state that the allegations contained in ¶ 77 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

78. Defendants willfully engaged in these deceptive trade practices and willfully caused the likelihood of confusion or of misunderstanding described above.

**ANSWER TO PARAGRAPH 78:** Defendants state that the allegations contained in ¶ 78 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

79. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer irreparable harm for which it has no adequate remedy at law, and, thus, Humanly Possible is entitled to injunctive relief.

**ANSWER TO PARAGRAPH 79:** Defendants state that the allegations contained in ¶ 79 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

80. By reason of Defendants' acts and unauthorized use of HUMANLY POSSIBLE, Humanly Possible has suffered and will continue to suffer damages in an amount to be proved at trial.

**ANSWER TO PARAGRAPH 80:** Defendants state that the allegations contained in ¶ 80 of the Complaint are conclusions of law as to which no responsive pleading is necessary, but that to the extent any response is required, deny the same.

### **AFFIRMATIVE DEFENSES**

#### **FIRST DEFENSE**

81. The Complaint fails to state a claim upon which relief may be granted.

#### **SECOND DEFENSE**

82. To the extent any of the purported activities set forth in the Complaint occurred, such activities were done by Manpower and not Right Management.

#### **THIRD DEFENSE**

83. Defendants have not used the words "humanly possible" as a trademark.

#### **FOURTH DEFENSE**

84. Defendants' use of the words "humanly possible" is descriptive.

#### **FIFTH DEFENSE**

85. Plaintiff's claims are barred by the doctrine of fair use.

SIXTH DEFENSE

86. Defendants' actions were innocent and non-willful.

SEVENTH DEFENSE

87. Plaintiff has not suffered, and will not suffer, any damage.

EIGHTH DEFENSE

88. Plaintiff's claims are barred by the doctrines of laches.

NINTH DEFENSE

89. Plaintiff's claims are barred by the doctrine of waiver.

TENTH DEFENSE

90. Plaintiff's claims are barred by the doctrine of acquiescence.

ELEVENTH DEFENSE

91. Plaintiff's claims are barred by the doctrine of estoppel.

TWELFTH DEFENSE

92. Plaintiff's claims are barred because Defendants acted in accordance with all applicable federal, state and local laws at all times.



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Respectfully submitted,



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